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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 STEPHEN J. DONELL, Permanent Receiver  
12 for Learn Waterhouse, Inc., and its  
subsidaries and affiliates,

13 Plaintiff,

14 vs.

15 CASEY GRIFFIS,

16 Defendant.  
17

CASE NO. 10-CV-2578 JLS (JMA)

**ORDER DIRECTING PLAINTIFF  
TO FILE SUPPLEMENTAL  
BRIEFING**

18 Presently before the Court is Plaintiff's application for default judgment as to Defendant  
19 Casey Griffis. (Motion, ECF No. 7.) Plaintiff filed this action on December 15, 2010, asserting  
20 three claims under California's Uniform Fraudulent Transfer Act (UFTA), Cal. Civ. Code § 3429  
21 *et seq.*, along with a common law claim for unjust enrichment. (Compl., ECF No. 1.)

22 As an initial matter, similar cases filed by Plaintiff Donell against other defendants in this  
23 District cause the Court to examine whether it has personal jurisdiction over Defendant Griffis.  
24 *See, e.g., Donell v. Keppers*, No. 10-CV-2613 (S.D. Cal., filed Dec. 20, 2010) (Gonzalez, J.);  
25 *Donnell v. Kozlowski*, No. 11-CV-1199 (S.D. Cal., filed June 1, 2011) (Sammartino, J.) "When  
26 entry of judgment is sought against a party who has failed to plead or otherwise defend, a district  
27 court has an affirmative duty to look into its jurisdiction over both the subject matter and the  
28 parties." *Tuli v. Republic of Iraq (In re Tuli)*, 172 F.3d 707, 712 (9th Cir. 1999). Although the

1 Court may dismiss an action *sua sponte* for lack of personal jurisdiction, where there are questions  
 2 about personal jurisdiction the Court should allow the plaintiff an opportunity to establish that  
 3 jurisdiction is proper. *See id.* at 712–13.

4 Pursuant to Federal Rule of Civil Procedure 4(k)(1)(D) and 28 U.S.C. § 1692, a court may  
 5 have personal jurisdiction over a defendant in a receivership action so long as the court-appointed  
 6 receiver complies with the filing requirements of 28 U.S.C. § 754. Section 754 sets forth the  
 7 following filing requirements:

8 Such receiver shall, within ten days after the entry of his order of appointment,  
 9 file copies of the complaint and such order of appointment in the district court for  
 10 each district in which property is located. The failure to file such copies in any  
 district shall divest the receiver of jurisdiction and control over all such property  
 in that district.

11 In this case, Plaintiff alleges that Defendant Griffis resides in MacClenny, Florida.  
 12 (Compl. ¶ 15.) Neither the complaint nor the motion for default judgment indicates  
 13 whether copies of the complaint and order of appointment were filed in the Middle District  
 14 of Florida. However, the Court finds that the requirements of § 754 have been met in *SEC*  
 15 *v. Learn Waterhouse, Inc.*, 04-mc-0037 (M.D. Fla., filed Oct. 18, 2004)<sup>1</sup>. On October 18,  
 16 2004, six days after Lennon was appointed as receiver<sup>2</sup>, Lennon filed both a copy of the  
 17 complaint and the order appointing him in the Middle District of Florida. *See SEC v.*  
 18 *Learn Waterhouse, Inc.*, 04-mc-0037 (M.D. Fla. [Doc. Nos. 1, 2]).

19 However, the UFTA creates a backstop of seven years within which a cause of  
 20 action for a fraudulent transfer must be filed. Cal. Civ. Code § 3439.09(c). Here, exhibits  
 21 supplied in support of Plaintiff’s motion indicate the transfers at issue occurred between  
 22 January 31, 2003, and January 1, 2004. (Schaefer Decl. ISO Motion Ex. 5, ECF No. 7-4.)

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25 <sup>1</sup>Pursuant to Federal Rule of Evidence 201, the Court may take judicial notice of the docket  
 26 in *SEC v. Learn Waterhouse, Inc.*, 04-mc-0037 (M.D. Fla., filed Oct. 18, 2004) because it is a “matter  
 27 of public record.” *See* Fed. R. Evid. 201; *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir.  
 2001).

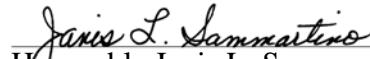
28 <sup>2</sup> The Court initially appointed Thomas F. Lennon as receiver, who was later succeeded by  
 Plaintiff Stephen Donell. *See SEC v. Learn Waterhouse, Inc.*, No. 04cv2037 (S.D.Cal., Order filed  
 Oct. 12, 2004, ECF No. 9); *id.* (Order filed Nov. 4, 2009, ECF No. 566).

1 Because approximately seven years passed between the fraudulent transfers and the filing  
2 of Plaintiff's complaint on December, the statute of limitations is implicated.

3 Thus, the Court **ORDERS** Plaintiff to provide supplemental briefing explaining  
4 why each claim should not be dismissed, in whole or in part, as barred by the relevant  
5 statute of limitations as to some or all of the transfers.<sup>3</sup> Plaintiff **SHALL FILE** this  
6 supplemental brief within **FOURTEEN DAYS**.

7 **IT IS SO ORDERED.**

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9 DATED: December 15, 2011

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11 Honorable Janis L. Sammartino  
12 United States District Judge  
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28 <sup>3</sup>See *Donell v. Keppers*, No.10-CV-2613, 2011 U.S. Dist. LEXIS 140564, at \*3 (S.D. Cal. Dec. 6, 2011) (describing previous order to show cause for this reason, and denying Plaintiff's motion for default judgment as barred by the statute of limitations).